

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

KJ Property Management,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0492
Parcel No. 171/00360-056-000

On September 25, 2012, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Owner, Doug Wilson, represented the Appellant KJ Property Management (KJ Property) and submitted evidence in support of its position. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr., as its representative. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

KJ Property is the owner of a residential, single-family property located at 553 Parkwood Boulevard, Pleasant Hill, Iowa. The property is a one-story home built in 1975, and has 1112 square feet of above-grade finish. There is full basement with 200 square feet of low-quality finish. Additional improvements include a 448 square-foot, attached garage, and a 360 square-foot deck. The site is 0.232 acres.

KJ Property protested to the Polk County Board of Review regarding the January 1, 2011, assessment of \$136,900, allocated as follows: \$27,900 in land value and \$109,000 in

improvement value. Its claim was based on the following grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a)(1); 2) that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2); and 3) that there is fraud in the assessment under section 441.37(1)(a)(5). The fraud claim essentially asserts the subject is over-assessed. It believed the correct total value was \$107,000, which was based on an appraisal with an effective date of February 4, 2011.

The Board of Review granted the protest in part, reducing the assessment to a total value of \$131,500, allocated as \$27,900 in land value and \$103,600 in improvement value.

KJ Property then appealed to this Board reasserting its claims.

On the Board of Review protest form, KJ Property listed three properties in Pleasant Hill as equity comparables. The properties are 381 N. Hickory Boulevard, 4896 Orchard Drive, and 4928 Beech Boulevard. Doug Wilson, an owner of KJ Property testified that these properties were listed on the petition because they were the comparable properties used in an appraisal by Don Lerdal of Lerdal and Associates.

Wilson further explained the subject property was purchased from foreclosure and that it needed paint, appliances, and landscaping. KJ Property purchased the property in March 2011, for \$104,900.¹ The appeal to this Board asserts the market value of the property is \$107,000,² based on an appraisal completed by Lerdal. The appraisal has an effective date of February 4, 2011.

¹ The subject property was listed for 74 days prior to an offer being accepted. It was listed on October 19, 2010 for \$133,900. The listing was reduced several times before an offer was accepted on January 25, 2011.

² KJ Property's written appeal to this Board claimed the correct market value was the appraised value of \$107,000. However, at hearing Wilson testified that he believed the appraisal was "low" and the correct value was between \$110,000 and \$115,000.

Lerdal indicated in his report that the subject property was in overall average condition throughout, although it did have some soiled carpet in need of replacement. He indicates there were no appliances in the property at time of his inspection; regardless, he considers the appliances personal property not included in his valuation. Lerdal used four sales and one listing in his valuation. These properties are located at 381 N. Hickory Boulevard, 4896 Orchard Drive, 4928 Beech Boulevard, 239 Christie Lane (listing), and 4910 E. Oakwood Drive.

The property on Orchard Drive is identified in the record as being a “bank” sale as the result of foreclosure. The property on Beech Boulevard is listed as an “other transfer,” such as from an administration, guardian, or trust. This could disqualify these properties from being utilized in an equity analysis and, unless adjusted, they would also not likely be considered for a market value analysis. In arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors, which distort market value. § 441.21(1)(b). Lerdal did not make any adjustments to these sales even though he recognized that Orchard Drive “had a title change to lender within the previous year” and “was the sale of a lender owned foreclosure.” Additionally, Lerdal also states in an addendum of this report that “foreclosure sales are often more of a liquidation sale than market value oriented.”

We also note that of the five properties Lerdal considered as comparable, only the listing on Christie Lane and the sale on Oakwood Drive were one-story homes like the subject. The other three properties (Orchard Drive, Beech Boulevard, and Hickory Boulevard) were either split-foyer or split-level designs. After adjustments, the four sales indicated a range of value from \$104,750 to \$121,500. The one-story home on Oakwood Drive set the upper end of this range at \$121,500, whereas the three other sales had adjusted values from \$104,750 to \$107,000.

Lerdal acknowledged a “lack of recent ranch style sales,” however, also stated he considered the split foyer and split level styles to offer similar utility. But, it would seem that there is some difference unaccounted for between the one-story sale and the other three sales in his report due to the nearly \$15,000 to \$17,000 difference in the adjusted values. As such, we find flaws with Lerdal’s report due to the use of known foreclosure or abnormal sales without adjustment, as well as the only one-story home setting the high end of the range with no explanation.

Wilson also offered four additional sales located at 303 11th Street SE, 4900 Orchard Drive, 4875 Pine Valley Drive, and 377 N Hickory Boulevard. Both Pine Valley Drive and Hickory Boulevard sold from trusts, according to the property record cards submitted. The 11th Street property was also purchased by KJ Property, and at hearing it was questioned whether Wilson knew if the property had been listed as “needing to sell.” Regardless, the 11th Street and Orchard properties are unadjusted and three of the properties sold well after the January 1, 2011, assessment date. Therefore, we give them no consideration.

Lastly, at hearing, Wilson stated he believed the appraised value was “low” and that it was his opinion the subject property had a value closer to the \$110,000 to \$115,000 range. We agree with Wilson, that given the concerns noted, the appraised value does not appear to represent the actual market value. We also agree there is evidence to suggest the assessed value is more than market value; however, insufficient evidence was presented to support what KJ Property believes is the subject property’s correct market value.

The record also includes an appraiser’s analysis completed by the Assessor’s Office for the Board of Review. The analysis considered five homes all built in 1960 or 1975. Three of the properties are split-foyers, one is a split-level, and one is a one-story. They had sale prices from \$134,900 to \$144,900, and sold between February 2009 and July 2010. After adjustments, the

sales range from \$127,700 (rounded) to \$150,800 (rounded). However, the adjustments made by the Board of Review appear to be cost adjustments rather than market adjustments. Therefore, we give this analysis no consideration.

Based on the foregoing, we find insufficient evidence has been provided to support the claims raised before this Board. However, we suggest the Board of Review request the assessor's office to look at this property again to ensure the assessment is properly valued.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). However, new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in

arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of its actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value.

§ 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. KJ Property did not show inequity under the tests of *Maxwell* or *Eagle Foods*.

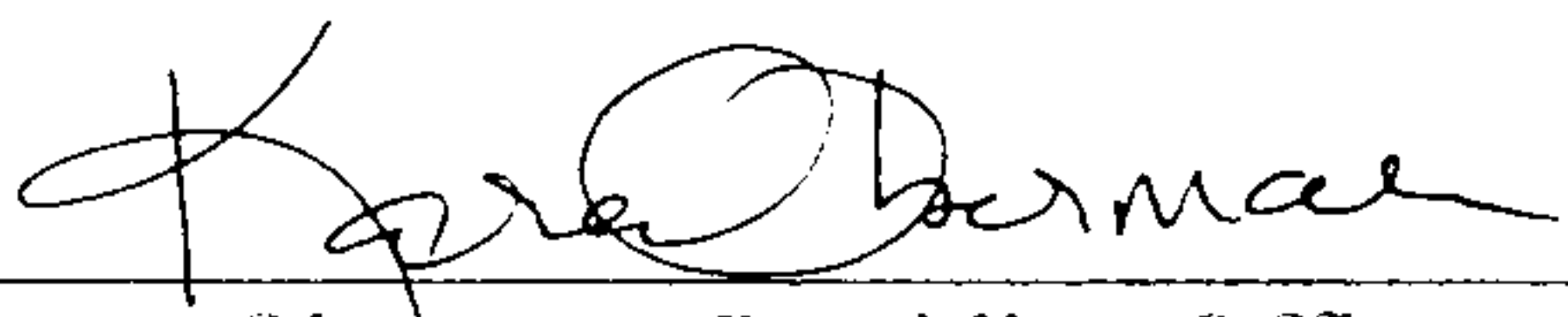
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that: 1) the assessment is excessive and 2) the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). KJ Property submitted an appraisal completed by

Don Lerdal with an effective date of February 4, 2011. However, the appraisal included known foreclosure sales and a sale that sold from a trust with no adjustment to reflect for these abnormal transactions. Additionally, it is questionable why the only sale of similar style set the upper end of the range. And lastly, Wilson testified it was his belief the Lerdal appraisal was “low” and that the actual market value was slightly higher. Ultimately, KJ Property did not establish the correct market value of the subject property.

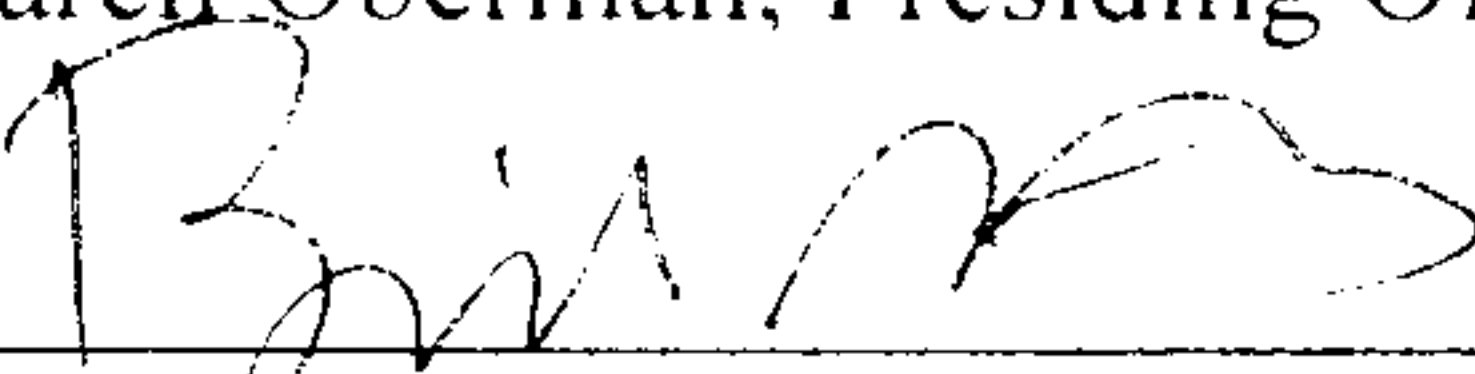
KJ Property also asserts the market value of the subject should be the sales price. We think it is clear from the wording of section 441.21(1)(b)(1) that a sales price for the subject property in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish that value. *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996) (holding the same).

THE APPEAL BOARD ORDERS the assessment of KJ Property Management’s property located at 303 11th Street SE, Altoona, of \$131,500, as of January 1, 2011, set by the Polk County Board of Review, is affirmed.

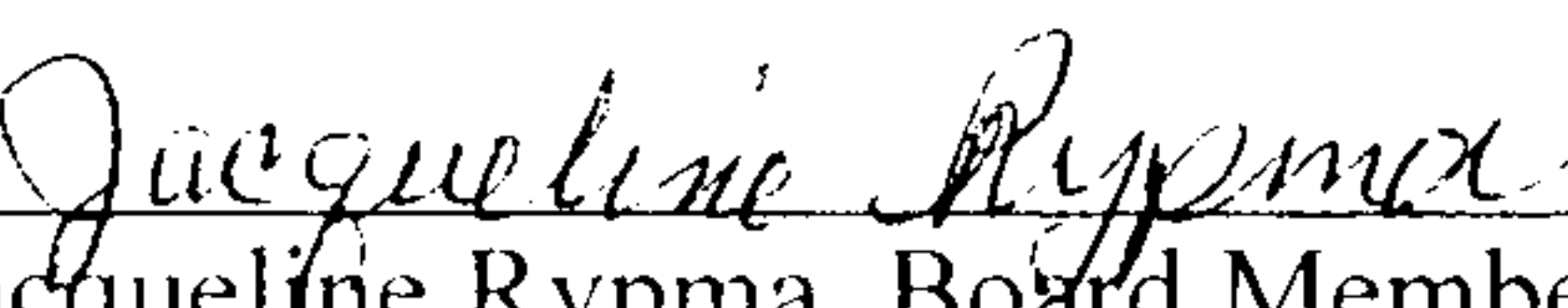
Dated this 17 day of October, 2012.



Karen Oberman, Presiding Officer



Richard Stradley, Board Chair



Jacqueline Rypma, Board Member

Cc:

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REPRESENTATIVE FOR APPELLEE

Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-17</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	